

## **REMARKS**

### **I. Status Of The Application**

This Reply is being submitted in response to the Non-Final Office Action mailed on November 19, 2009. Claims 1-12 are pending in this application. In the Office Action, the Examiner has rejected claims 1-12 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,428,510 to Titus, et al. (“Titus”) in view of U.S. Patent No. 6,952,575 to Countryman, et al. (“Countryman”); claim 3 was rejected under 35 U.S.C. § 112, second paragraph; and claim 12 was rejected under 35 U.S.C. § 112, sixth paragraph. Reconsideration of the pending claims is requested in view of the present remarks. No amendments are made in this paper.

### **II. Rejection of Claims Under 35 U.S.C. § 103**

The Examiner has rejected claims 1-12 under 35 U.S.C. § 103(a) as being unpatentable over Titus in view of Countryman. Applicants respectfully traverse this rejection.

On page 5 of the Office Action, the Examiner states “it would have been obvious, at the time of the invention, to one of ordinary skill to combine the well known elements of Titus regarding prepaid messaging service with the equally well known elements of Countryman regarding determining the service type associated with post-paid and pre-paid calls with the motivation to insure [sic] that subscriber/clients are properly billed for the usage of each of the various service types.”

However, “determining the service type” as described in Countryman consists of determining whether a call is associated with a pre-paid or post-paid account for purposes of routing the call handle to a pre-paid or post-paid service. This is clearly shown in FIGs. 2 and 4 of Countryman, and is described within Countryman at several locations. *See*, col. 2, ll. 30-33; col.7, ll. 25-34; col. 8, ll. 17-30; and col. 9, ll. 22-32. Thus, Countryman describes how the actual call handle is routed.

Conversely, claim 1 of the pending application instead is related to how a tariff (bill) for a data transaction, such as a call, SMS, or MMS, is handled. Claim 1 in no way has a bearing on how a data transaction itself is routed. The technical considerations of the implementation of routing a call handle to a specific platform are quite distinct from those associated with routing

billing for a data transfer. Accordingly, the “routing” disclosed in Countryman is that of a different technology to the billing routing of the pending claims, and consequently does not anticipate nor render obvious the “routing” recited in the pending claims of the present application. Thus, not all of the limitations of pending claim 1 are taught or suggested by Titus in view of Countryman.

Additionally, Countryman teaches that it is necessary to route the data transmission in only one of two ways. In contrast, pending claim 1 is directed to establishing a routing criteria for tariff information, calculating a tariff, and “routing the tariff to one or more billing destinations, being selectable from a plurality of available billing destinations, in accordance with the routing criteria previously established.” Thus, it is clear that the arrangement of the pending claims is advantageous over that set forth in Countryman because it allows for much greater flexibility: a single data transaction may be billed to a single account, or divided and billed across multiple accounts.

Figures 10 and 11, as well as paragraph [0112] of the pending application, make clear that selection of a tariff determines not only a price of a data transmission, but also a primary and secondary account to which the tariff is billed. An attempt is made to deduct the tariff from the primary account, but if the primary account does not have a sufficient balance to cover the tariff, it is deducted from the secondary account. Figure 14 also shows a similar functionality, where the “loyalty scheme” referred to at step 4 is the primary account, and the “external prepaid account” of step 5 is the secondary account. In this embodiment, some of the tariff is taken from the loyalty scheme, and the remainder is removed from the external prepaid account. There is no teaching in Countryman for billing a data transaction to multiple accounts in such a manner.

Further, there is no disclosure within Countryman for choosing the account(s) to bill the tariff independently of the call handling route taken. For example, in the pending application as recited in claim 1, two data transactions to which the same tariff has been applied may be billed to different accounts, and two data transactions to which different tariffs have been applied may be billed to the same account. Such an arrangement is not possible with the system disclosed by Countryman. Accordingly, a person having ordinary skill in the art viewing the call handling routing feature of Countryman would in no way arrive at the invention of claim 1 of the pending application.

Thus, for at least the reasons given above, independent claim 1 is patentable over Titus in view of Countryman. For at least these same reasons, independent claims 9 and 12 are also patentable over Titus in view of Countryman. Claims 2-8, and 10-11 depend either directly or indirectly from independent claim 1 and 9 respectively, and therefore are also allowable.

### **III. Rejection of Claims Under 35 U.S.C. § 112**

Claim 3 has been rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully request that the Examiner withdraw this rejection. Claim 3 is directed to a system where the tariff routing criteria is not based upon the data transaction. The Examiner has indicated that the claim “does not specifically disclose how the routing criteria is determined, thereby rendering the claim broad and indefinite.” Office Action, p.2. However, claim 3 does disclose that the routing criteria is chosen by a basis other than the parameters associated with the data. Paragraph [0124] of the pending application makes clear that a “static mode” exists within the “configuration selection module” where “the billing destination or destinations where the tariff is to be routed is pre-defined, and is independent of the data transaction details.” Thus, it is clear that claim 3 is directed to a method where information about the particular data transaction is not utilized to route the tariff to a billing destination. Thus, dependent claim 3 does distinctly claim the subject matter that applicants regard as their invention, and should be allowed.

Claim 12 has been rejected under 35 U.S.C. § 112, sixth paragraph, because the Examiner believes “the written description fails to disclose the corresponding structure, material, or act of the claimed function.” Office Action, p. 2. Applicants respectfully traverse this rejection. FIG. 8 discloses the structures recited in claim 12. As described in paragraph [0085], a message interface module 401 receives a request from a messaging platform 20. Thus, the message interface module 401 comprises, at least in one embodiment, the “means for receiving at least one unique identifier uniquely associatable with a data transaction from the switching center.

FIG. 8 also discloses a rating module 403 that “rates the transaction based on the values of a number of pre-defined criteria and calculates an appropriate tariff or rate for that transaction.” Paragraph [0085]. Thus, at least in one embodiment, the rating module 403

comprises the “means for evaluating the data transaction to as to determine a correct tariff rate for that transaction.”

Finally, FIG. 8 discloses a routing module 404 that routes the tariff to a billing destination. Paragraph [0088]. Thus, at least in one embodiment, the routing module 404 comprises the “means for routing that tariff rate to a billing destination.”

Thus, FIG. 8 and the associated portions of the specification disclose the corresponding structure of claim 12, and Applicants respectfully request that the rejection be withdrawn.

### **CONCLUSION**

In light of the foregoing reasons, Applicants respectfully request reconsideration and allowance of the pending claims in this application. The Commissioner is authorized to charge any additional fees or credit any overpayments associated with this Response to Deposit Account 13-0206. Applicants further invite the Examiner to contact the undersigned representative at the telephone number below to discuss any matters pertaining to the present Application.

Respectfully submitted,

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